

KSR 8/14/01 14:36

3:01-CV-01206 BANC OF AMERICA V. APOLLO FISHERIES

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WRIT.

Jennifer LaPide #83200 Melville
Pillsbury Winthrop LLP
101 West Broadway, Suite 1800
San Diego, CA 92101-8219

TELEPHONE NO.: (619) 234-5000 FAX NO.: (619) 236-1995

ATTORNEY FOR (Name): Banc of America Specialty Finance, Inc.

NAME OF COURT: United States District Court
STREET ADDRESS: Southern District of California
MAILING ADDRESS: 880 Front Street
CITY AND ZIP CODE: San Diego, CA 92101-8900
BRANCH NAME:

PLAINTIFF: BANC OF AMERICA SPECIALTY FINANCE, INC.

DEFENDANT: APOLLO FISHERIES SERVICE, INC., etc., et al.

FILED

JG

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
[Handwritten signature]
DEPT

EX	CASE NUMBER:
<input checked="" type="checkbox"/> RIGHT TO ATTACH ORDER AND ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT (RESIDENT) <input type="checkbox"/> ORDER FOR ISSUANCE OF ADDITIONAL WRIT OF ATTACHMENT (RESIDENT)	01cv1206 BTM (LSP)

1. The application and supporting declaration or affidavit of plaintiff (name): Banc of America Specialty Finance, Inc., etc. for an ex parte right to attach order and order for issuance of writ of attachment order for issuance of an additional writ of attachment has been considered by the court.

2. THE COURT FINDS

a. Defendant (specify name): Ronald Gladnick, an individual natural person
 partnership unincorporated association corporation other (specify):

b. The claim upon which the application is based is one upon which an attachment may be issued under Code of Civil Procedure section 483.010.

c. Plaintiff has established the probable validity of the claim upon which the attachment is based.

d. The attachment is not sought for a purpose other than the recovery on the claim upon which the application is based.

e. The amount to be secured by the attachment is greater than zero.

f. The affidavit or declaration accompanying the application shows that the property sought to be attached, or the portions thereof to be specified in the writ, are not exempt from attachment.

g. The portion of the property sought to be attached described in item 3b is not exempt from attachment.

h. An undertaking in the amount of: \$ 7,500.00 is required before a writ shall issue, and plaintiff has has not filed an undertaking in that amount.

i. Great or irreparable injury will result to the plaintiff if issuance of the order is delayed until the matter can be heard on notice, based on the following:

- (1) There is a danger that the property sought to be attached would be
 - (a) concealed substantially impaired in value.
 - (b) made unavailable to levy by other than concealment or impairment in value.
- (2) Defendant has failed to pay the debt underlying the requested attachment and is insolvent as defined in Code of Civil Procedure section 485.010, subdivision (b)(2), as set forth in the affidavit or declaration filed in support of this application, which specifies the defendant's known undisputed debts and the basis for plaintiff's determination that the defendant's debts are undisputed.
- (3) A bulk sales notice was recorded and published pursuant to Division 6 of the Commercial Code with respect to a bulk transfer by the defendant.
- (4) An escrow has been opened pursuant to the provisions of Business and Professions Code section 24074 with respect to the sale by the defendant of a liquor license. The liquor license number is:
- (5) Other circumstances (specify):

J. A Right to Attach Order was issued on (date): pursuant to
 Code of Civil Procedure section 484.090 (on notice) Code of Civil Procedure section 485.220 (ex parte)

k. Other (specify):

(Continued on reverse)

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ORDER

3. THE COURT ORDERS

a. Plaintiff has a right to attach property of defendant (name): Ronald Gladnick, an individual in the amount of: \$ 316,869.63

b. The clerk shall issue a writ of attachment an additional writ of attachment in the amount stated in item 3a forthwith upon the filing of an undertaking in the amount of: \$ 7,500.00
 (1) for the property covered by a bulk sales notice with respect to a bulk transfer by defendant or the proceeds of the sale of such property, described as follows (specify):

(2) for plaintiffs pro rata share of proceeds from an escrow in which defendant's liquor license is sold. The license number is (specify):
 (3) for any property of a defendant who is not a natural person for which a method of levy is provided.
 (4) for property of a defendant who is a natural person subject to attachment under Code of Civil Procedure section 487.010 (specify):
 See Exhibit "A" attached hereto and made a part hereof for real property; and
 See Exhibit "B" attached hereto and made a part hereof for personal property.

c. Defendant shall transfer to the levying officer possession of
 (1) any documentary evidence in defendant's possession of title to any property described in item 3b.
 (2) any documentary evidence in defendant's possession of debt owed to defendant described in item 3b.
 (3) the following property in defendant's possession (specify):
 See Exhibit "B" attached hereto and made a part hereof.

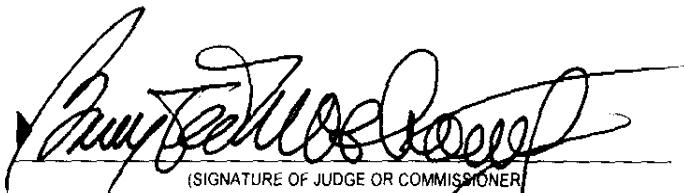
NOTICE TO DEFENDANT: FAILURE TO COMPLY WITH THIS ORDER MAY SUBJECT YOU TO ARREST AND PUNISHMENT FOR CONTEMPT OF COURT.

c. Other (specify):

e. Total number of boxes checked in item 3: 7

Date: August 10, 2001

HARRY TED MOSKOWITZ
 (TYPE OR PRINT NAME)


 (SIGNATURE OF JUDGE OR COMMISSIONER)

RONALD GLADNICK

EXHIBIT "A"

Property No. 1

Common Address

1025 Guizot Street
San Diego, CA 92107-4024
Assessor's Parcel No. 531-020-22-00

RW

Legal Description

The following described real property in the City of San Diego, County of San Diego, State of California:

Parcel B of Parcel Map No. 686, filed in the Office of the San Diego County Recorder December 7, 1971, being a portion of Lots 21 and 22, Block 25 of SUNSET CLIFFS, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 1889, filed in the Office of the County Recorder of San Diego County, March 1, 1926.

This property is owned in common with R.C. Gladnick & Natalie Cintas-Gladnick, Trustees of the Gladnick Family Trust dated 12/09/1999, 1025 Guizot Street, San Diego, CA 92107.

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Property No.

PM

Common Address

1244 Knoxville Street
San Diego, CA 92110-3717
Assessor's Parcel No. 436-020-4300

Legal Description

The following described real property in the County of San Diego, State of California:

Parcel 4, in the City of San Diego, County of San Diego, State of California, as shown at page 13992 of Parcel Maps, filed in the office of the County Recorder of San Diego County, October 22, 1985 as File No. 85-392674 of Official Records.

This property is owned in common with Natalie Cintas-Gladnick, 2608 Temple Heights Drive, Oceanside, CA 92056-3512.

RONALD GLADNICK

EXHIBIT "B"

1. Tangible Personal Property

(1) Antiques, Jewelry, heirlooms and works of art, to the extent that the value thereof exceeds \$2,500 (C.C.P. §704.040).

Tools, instruments, materials, furnishings, books, and equipment, except that the first \$2,500 in aggregate equity therein is exempt from attachment or judgment if these items are reasonably necessary to, and actually used in, the conduct of a trade or business (C.C.P. §704.060).

2. Other Property

(1) Shares of Stock (C.C.P. §487.010)

(a) All shares of stock held in Apollo Fisheries Service, Inc., dba Blue Porpoise Marine

(2) All Interests in the following entity:
(C.C.P. §487.010)

(a) Apollo Fisheries Service, Inc., dba Blue Porpoise Marine

(3) Deposit Accounts (C.C.P. §487.010)

All money in the possession, on the premises, or in deposit accounts of or belonging to defendant, to the extent that the aggregate amount thereof exceeds \$1,000 (C.C.P. §487.010).

(4) Notes (Receivables) (C.C.P. §487.010)

(a) All Promissory Notes and/or Deeds of Trust or other evidence of indebtedness owed to Defendant;

(5) Accounts receivable, chattel paper, and general intangibles arising from defendant's conduct of a trade or business to the extent that any individual such item exceeds \$150.00 in principal balance (C.C.P. §487.010);

(6) Negotiable documents of title, securities, instruments, equipment, farm products, and inventory (C.C.P. §487.010);

(7) Final money judgments arising from the conduct by the defendant of a trade, business or profession (C.C.P. §487.010);

(8) The aggregate loan value of unmatured life insurance policies to the extent that such value exceeds \$4,000 (C.C.P. §704.100).

Method of Levy

1. (1) Method of Levy provided by California Code of Civil Procedure § 488.335.
2. (1) Method of Levy provided by California Code of Civil Procedure § 488.450, and Commercial Code § 8317.
- (2) Method of Levy provided by California Code of Civil Procedure § 488.335 and § 488.470.
- (3) Method of Levy provided by California Code of Civil Procedure § 488.455 and §488.465.
- (4) Method of Levy provided by California Code of Civil Procedure § 488.440 and/or § 488.445.
- (5) Method of Levy provided by California Code of Civil Procedure § 488.435 and § 488.470 and §700.100.
- (6) Method of Levy provided by California Code of Civil Procedure § 488.445, §700.120, §488.450, §488.440, §700.110, §488.375, §488.395, §488.405, and California Commercial Code §8317.
- (7) Method of Levy provided by California Code of Civil Procedure § 488.480.
- (8) Method of Levy provided by California Code of Civil Procedure § 488.470.

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